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Jose A. Calderon
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Date: 5-26-05

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.: 10/672,713 Examiner: Arpad F Kovacs
Filing Date: September 26, 2003 Group Art Unit: 3671
Inventor: Sugden et al. Attorney Docket No. 864.046
Assignee: Scag Power Equipment, Inc.
Invention: *LAWN STRIPER*

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Restriction Requirement dated April 25, 2005, applicant hereby elects the invention of Group III, claims 16-19 for examination. This election is *with* traverse for multiple reasons.

First, restriction should not be made because the Examiner has already concluded that examining the remaining groups does not impose a burden on him:,

“If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.”

MPEP §803.01. In the present case, the Examiner has *already* examined all claims. Indeed, the Examiner has indicated that some of the claims though (including claims 4-8, 11-15, and 25-28) would be non-elected as a result of this

restriction requirement are allowable. It is patently clear from an objective standpoint that continued examination of claims that have already been examined and, in some cases, allowed, does not place a serious burden on the Examiner and that he must therefore consider all claims.

Turning now to the individual groups, the Examiner has failed to show the degree of distinctness required for restriction.

For instance, with respect to Groups III and V, claim 29 as amended in the Preliminary Amendment submitted herewith differs from claim 16 as amended only in that it recites a standard lawnmower. Where, as here, the inventions are related as combination/subcombination, the Examiner must show, *inter alia*, that the combination as claimed is patentable without the features of the subcombination as claimed.

“Restriction is ordinarily not proper between a combination (AB) the Examiner holds to be old and unpatentable and the subcombination (B) in which the Examiner holds to novelty, if any, to reside.”

MPEP §806.05(b). He cannot do so in the present case because any novelty in the combination (lawnmower and roller assembly) resides in the subcombination (the roller assembly). The remaining recited features of the lawnmower are standard and are unpatentable without considering the features of the roller assembly.

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With respect to Groups I and III, the Examiner has not shown that the roller assembly as recited in claim 1 has separate utility from the roller assembly as recited in claim 16. The same can be said for Groups II and III.

The Examiner has also failed to properly show the level of distinctness necessary to require a distinction between Group III and the remaining Groups.

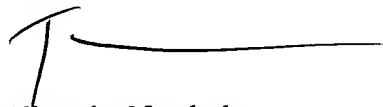
For the foregoing reasons, withdrawal of the Restriction Requirement and consideration and allowance of all claims are believed to be in order and are respectfully requested.

Enclosed is a check in the amount of \$120.00 in payment of the government fee for a one-month extension to respond, which applicant hereby requests. Should the Examiner consider any other fees to be payable in conjunction with this or any future communication, the Director is authorized to direct payment of such fees, or credit any overpayment to Deposit Account No. 50-1170.

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The Examiner is invited to contact the undersigned by telephone if it would help expedite matters.

Respectfully submitted,

A handwritten signature in dark ink, consisting of a large, stylized 'T' followed by a horizontal line extending to the right.

Timothy Newholm
Registration No. 34,400

Dated: May 25, 2005

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